

Application Serial No. 09/994,283
Reply to Office Action of December 12, 2006

PATENT
Docket No. CU-2732

REMARKS/ARGUMENTS

Prior to this amendment, claims 1-6 were pending. Upon entry of this amendment, claim 6 will be cancelled leaving claims 1-5 pending.

None of the claims were rejected because of prior art in the office action that was mailed October 12, 2006. The office action raised only matters of form, i.e., objections to the drawings and specification and a rejection of claim 6 under 35 U.S.C §112.

In view of the nature of the office action, the applicant requests entry of this amendment under the provisions of 37 C.F.R. §1.116 because the amendment corrects only matters of form. If the amendment is entered, the matters corrected by this amendment will place the application in condition for allowance. There is no need for filing an RCE after this amendment.

Referring now to the office action that was mailed October 12, 2006, the Examiner objected to the drawings, albeit for a reason that was not previously raised in any one of the seven (7) previous office actions that have been mailed during the lengthy prosecution of this case. On page 2 of the office action, the Examiner stated in paragraph number 2 that "the outer surface of where layer 45 is formed is not labeled."

Directing the Examiner's attention now to the U.S. Code of Federal Regulations, 37 C.F.R. §1.104(a) states in pertinent part: "(1) On taking up an application...the examiner shall make a thorough study thereof...[t]he examination shall be complete with respect to both to compliance...with the applicable statutes and rules...as well as with respect to matters of form...." (Emphasis added.)

The office action mailed October 10, 2006 was the seventh (7th) office action issued by the Patent Office for this application. Previous office actions were mailed on

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each of: July 17, 2003, January 9, 2004; July 23, 2004; January 10, 2005; July 19, 2005 and March 13, 2006. Before the most-recent office action was mailed, not once did the Examiner object to the figures because "the outer surface of where layer 45 is formed [was] not labeled," as the Examiner now states in paragraph 2 of page 2. The drawing objection made in the most recent office action is therefore the first time that the Examiner objected to the labeling of layer 45.

In view of the fact that seven (7) office actions have already been issued and not one of them included an objection to the labeling of layer 45, it necessarily follows that every one of the previous office actions was either deficient under 37 C.F.R. §1.104, or, the drawing objection made in the most recent office action is improper. In either case, the Examiner's objection to the figures at this late date, and having been made for the first time in a final rejection, is improper. If the Examiner maintains the drawing objection, the Applicant demands that the finality of the rejection be withdrawn in order to allow the applicant to file yet another amendment to the figures.

For purposes of making this record clear, the outer surface of where layer 45 is formed is not claimed. Thus, under 37 C.F.R. 1.83(a), the outer surface of where layer 45 is formed need not be labeled. The applicant reiterates that the drawing objection is improper and must be withdrawn.

Referring again to the office action, on page 3 the specification was objected to as not providing proper antecedent basis to claim terms. The Examiner objected to the claims as not providing antecedent basis for the terms "the upper substrate" and "the outer substrate" in claims 1 and 3. The **first angle** and the **second angle** recited in claims 1, 3 and 6 needed clarification.

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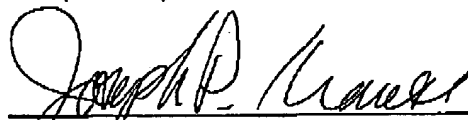
In response to the objections to the specification, the claims' preambles have been amended to provide antecedent basis for "the upper surface." Moreover, the claims have been amended to more carefully claim the first angle and the second angle.

The claims as filed recited upper and lower substrates. The inclusion of these terms in the claims was never rejected or objected to by the Examiner. The specification describes and the drawings show upper and lower substrates, thus, the current amendment does not add new matter.

Claim 6 has been cancelled. Thus, the rejection of claim 6 under 35 U.S.C. §112, ¶1 has been traversed.

For the reasons set forth above, the Applicants respectfully requests that this Amendment be entered under Rule 116. This Amendment corrects only matters of form and places the claims in condition for allowance. It should be entered under Rule 116.

Respectfully submitted,



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Joseph P. Krause Reg. No. 32,578
Ladas & Parry
224 South Michigan Avenue
Chicago, Illinois 60604
(312) 427-1300